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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

GARRETT F. JOHNSTON,  
  
Plaintiff,

v.

PINNACLE RECOVERY, INC.,  
  
Defendant.

Case No. 3:21-cv-08894

**COMPLAINT FOR DAMAGES**

**1. VIOLATION OF THE FAIR DEBT  
COLLECTION PRACTICES ACT, 15 U.S.C.  
§1692 *ET SEQ.***

**2. VIOLATION OF THE ROSENTHAL  
FAIR DEBT COLLECTION PRACTICES  
ACT, CAL. CIV. CODE §1788 *ET SEQ.***  
JURY TRIAL DEMANDED

**NOW COMES** GARRET F. JOHNSTON (“Plaintiff”), by and through his undersigned counsel, complaining as to the conduct of Defendant PINNACLE RECOVERY, INC., (“Defendant”) as follows:

**NATURE OF THE ACTION**

1. Plaintiff brings this action seeking redress for Defendant’s violations of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §1692 *et seq.* and the Rosenthal Fair Debt Collection Practices Act (“RFDCPA”), Cal. Civ. Code §1788 *et seq.*

**JURISDICTION AND VENUE**

2. Subject matter jurisdiction is conferred upon this Court by the FDCPA and 28 U.S.C. §§1331 and 1337, as the action arises under the laws of the United States.





1           25. Pursuant to §1692d of the FDCPA, a debt collector is prohibited from engaging “in  
2 any conduct the natural consequence of which it to harass, oppress, or abuse any person in  
3 connection with the collection of a debt.” 15 U.S.C. §1692d.

4           26. Section 1692d(5) of the FDCPA prohibits a debt collector from “causing a telephone  
5 to ring or engaging any person in telephone conversation repeatedly or continuously with intent to  
6 annoy, abuse, or harass any person at the called number.” 15 U.S.C. §1692d(5).

7           27. Defendant violated §§1692d and d(5) by placing collection calls to Claire after  
8 Plaintiff demanded that Defendant stop contacting his daughter.

9           28. Defendant’s conduct in systematically placing unwanted calls to Claire’s phone  
10 number is inherently harassing and abusive.

11           29. Defendant’s collection calls to Claire were made with the specific intent of  
12 embarrassing Plaintiff and coercing him into making a payment on the subject debt.

13           30. The fact that Defendant knowingly placed calls to Claire after Plaintiff demanded  
14 that that the calls cease is illustrative of Defendant’s intent to harass and annoy Plaintiff and his  
15 daughter.

16           **WHEREFORE**, Plaintiff, GARRETT F. JOHNSTON, respectfully requests that this Honorable  
17 Court:

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- 19           a. Declare that the practices complained of herein are unlawful and violate the
  - 20           aforementioned statute;
  - 21           b. Enjoin Defendant from continuing to contact Plaintiff;
  - 22           c. Award Plaintiff statutory and actual damages, in an amount to be determined at trial, for
  - 23           the underlying FDCPA violations;
  - 24           d. Award Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C.
  - 25           §1692k; and
  - 26           e. Award any other relief as the Honorable Court deems just and proper.
- 27
- 28

**COUNT II**

**Rosenthal Fair Debt Collection Practices Act (Cal. Civ. Code §1788 *et. seq.*)**

31. All paragraphs of this Complaint are expressly adopted and incorporated as though fully set forth herein.

32. Plaintiff is a “person” as defined by Cal. Civ. Code §1788.2(g).

33. Defendant is a “debt collector” as defined by Cal. Civ. Code §1788.2(c) because it regularly engages in debt collection in its ordinary course of business.

34. Pursuant to §1788.17 of the RFDCPA, a debt collector must comply with the provisions set forth in §§1692b-1692j of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §1692 *et. seq.* Cal Civ. Code §1788.17.

35. As pled above, Plaintiff and his daughter were harmed by Defendant’s unfair collection practices.

36. Pursuant to Cal. Civ. Code §1788.17, by violating §§1692c of the FDCPA, Defendant also violated the RFDCPA.

**WHEREFORE**, Plaintiff, GARRETT F. JOHNSTON, prays for the following relief:

- A. A finding that Defendant’s conduct violated the Rosenthal Fair Debt Collection Practices Act;
- B. An award of actual damages;
- C. An award of statutory damages;
- D. An award of Plaintiff’s reasonable attorney’s fees and costs;
- E. An award of any other relief this Honorable Court deems just and appropriate

**Plaintiff demands trial by jury.**

Dated: November 17, 2021

Respectfully Submitted,

**GARRETT F. JOHNSTON**

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By: /s/ Nicholas M. Wajda

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